

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:11CR132
)	
v.)	
)	
MATT McDERMOTT,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the Court on defendant's application to proceed *in forma pauperis* and request for attorney (Filing No. [147](#)). Defendant has filed a notice of appeal concerning his § 2255 motions (Filing Nos. [119](#) and [120](#)) which were denied by this Court (Filing No. [121](#)) on April 18, 2014. The Court characterized said motions as objections to the terms and conditions of his probation (Filing No. [118](#)).

Before the matter can proceed on appeal, the Court must issue a certificate of appealability regarding the notice of appeal. Title 28 U.S.C. § 2253 states:

(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from
. . .

(B) the final order in a proceeding under section 2255.

(2) A certificate of appealability may issue under paragraph (1) only

if the applicant has made a
substantial showing of the denial
of a constitutional right.

28 U.S.C. § 2253(c).

After reviewing the defendant's § 2255 motions and this
Court's order denying those motions, the Court finds that
defendant is entitled to appeal the sentence imposed on May 5,
2014 (Filing No. [143](#)). Accordingly,

IT IS ORDERED:

1) Defendant's application to proceed *in forma pauperis*
is granted.

2) Defendant's request for attorney is denied without
prejudice, subject to renewal with the United States Court of
Appeals for the Eighth Circuit.

3) A certificate of appealability is issued and
defendant may proceed on appeal as to the sentence imposed in
this action.

DATED this 15th day of May, 2014.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court